



**Texas Department of Insurance**

**Division of Workers' Compensation**

Medical Fee Dispute Resolution, MS-48  
7551 Metro Center Drive, Suite 100 • Austin, Texas 78744-1645  
518-804-4000 telephone • 512-804-4811 fax • [www.tdi.texas.gov](http://www.tdi.texas.gov)

**MEDICAL FEE DISPUTE RESOLUTION FINDINGS AND DECISION**

**GENERAL INFORMATION**

**Requestor Name and Address**

MEDI-PLUS PHARMACY  
PO BOX 546  
BARKER TX 77413-0546

**Carrier's Austin Representative Box**

Box Number: 54

**Respondent Name**

TEXAS MUTUAL INSURANCE CO

**MFDR Date Received**

MAY 24, 2012

**MFDR Tracking Number**

M4-12-2984-01

**REQUESTOR'S POSITION SUMMARY**

**Requestor's Position Summary:** "Most pharmacies participate in networks in which compensation is governed by contract for transactions subject to such contracts. We do not belong to any PBM or are not contracted with any private Insurance. Medi-Plus Pharmacy has set out to function under a unique situation that is not considered under Texas Mutual so called study of the norm U&C fee for pharmacies... **Medi-Plus pharmacy on the other hand has not merchandise to profit from but gives specific service related to workers' comp. patient.**"

**Amount in Dispute:** \$143.56

**RESPONDENT'S POSITION SUMMARY**

**Respondent's Position Summary:** "The following is the carrier's statement with respect to this dispute of 1/5/12. Texas Mutual has nothing further to add beyond what has been communicated to the requestor through Texas Mutual's Explanation of Benefits forms. No further payment is due."

**Response Submitted by:** Texas Mutual Insurance Company, 6210 E. Hwy 290, Austin, TX 78723

**SUMMARY OF FINDINGS**

Dates of Service	Disputed Services	Amount In Dispute	Amount Due
January 5, 2012	METHYLPREDNISOLONE 4 MG DOS	\$143.56	\$0.00

**FINDINGS AND DECISION**

This medical fee dispute is decided pursuant to Texas Labor Code §413.031 and all applicable adopted rules of the Texas Department of Insurance, Division of Workers' Compensation.

## **Background**

1. 28 Texas Administrative Code §133.307, effective May 25, 2008 33 Texas Register 3954 sets out the procedures for resolving a medical fee dispute.
- 2.
3. 28 Texas Administrative Code §134.503, effective October 23, 2011, sets out the reimbursement for the pharmaceutical services in dispute.
4. The services in dispute were reduced/denied by the respondent with the following reason codes:
  - W1 – Workers Compensation State Fee Schedule Adjustment.
  - 517 – Paid at est. U&C based on research, labor Code sec 413.043, and PFG, 28 Tex:Admin Code 134.503. to Electronic bill.
  - 790 – This charge was reimbursed in accordance to the Texas Medical Fee Guideline.
  - 193 – Original payment decision is being maintained. Upon review, it was determined that this claim was processed properly.
  - 891 – No additional payment after reconsideration.

## **Issues**

1. How is reimbursement established for the service(s) in dispute?
2. Did the requestor support its request for additional reimbursement?

## **Findings**

1. Reimbursement for the service in dispute may be established by applying 28 Texas Administrative Code §134.503, effective from October 23, 2011, which states, in pertinent part:
  - (a) Applicability of this section is as follows:
    - (1) This section applies to the reimbursement of prescription drugs and nonprescription drugs or over-the-counter medications as those terms are defined in §134.500 of this title (relating to Definitions) for outpatient use in the Texas workers' compensation system, which includes claims:
      - (A) subject to a certified workers' compensation health care network as defined in §134.500 of this title;
      - (B) not subject to a certified workers' compensation health care network; and
      - (C) Subject to Labor Code §504.053(b)(2).
    - (2) This section does not apply to parenteral drugs.
  - (b) For coding, billing, reporting, and reimbursement of prescription drugs and nonprescription drugs or over-the-counter medications, Texas workers' compensation system participants shall apply the provisions of Chapters 133 and 134 of this title (relating to General Medical Provisions and Benefits—Guidelines for Medical Services, Charges, and payments, respectively).
  - (c) The insurance carrier shall reimburse the health care provider or pharmacy processing agent for prescription drugs the lesser of:
    - (1) The fees established by the following formulas based on the average wholesale price (AWP) determined by utilizing a nationally recognized pharmaceutical price guide or other publication of pharmaceutical pricing data in effect on the day the prescription drug is dispensed.
      - (A) Generic drugs:  $((AWP \text{ per unit}) \times (\text{number of units}) \times 1.25) + \$4.00$  dispensing fee = MAR;
      - (B) Brand name drugs:  $((AWP \text{ per unit}) \times (\text{number of units}) \times 1.09) + \$4.00$  dispensing fee = MAR;
      - (C) When compounding, a single compound fee of \$15 per prescription shall be added to the calculated total for either paragraph (a)(A) or (B) of this subsection; or
    - (2) notwithstanding §133.20(e)(1) of this title (relating to Medical Bill Submission by Health Care Provider), the amount billed to the insurance carrier by the:
      - (A) health care provider;

Review of the explanation of benefits, position statements, and other documentation provided by the parties finds that: (1) no contract exists between the parties; and that (2) there are no denial codes or assertions refuting that the amount charged is the usual and customary amount. Consequently, the MAR in this medical fee dispute is established by determining the lesser of the charged amount and the AWP formula pursuant to 28 Texas Administrative Code §134.503(c)(1).

2. 28 Texas Administrative Code §134.503(c)(1) (effective October 23, 2011) states, in pertinent part, that “The fees established by the following formulas based on the average wholesale price (AWP) determined by utilizing a nationally recognized pharmaceutical price guide or other publication of pharmaceutical pricing data in effect on the day the prescription drug is dispensed.”

The Pharmacy Fee Guideline establishes that the Division expects AWP prices to be updated daily. Because the requestor has the burden of proof in this medical fee dispute, it must provide evidence to support that any asserted AWP values used to calculate reimbursement pursuant to §134.503(c)(1) were in effect on the day the disputed drug was dispensed. A mere assertion of the rate in effect on the day that the drug is dispensed is not sufficient.

3. The pharmaceutical in dispute was dispensed on January 5, 2012. After thorough review of the information and documentation provided by the parties, the Division finds:
- The respondent did not provide any evidence to support the asserted AWP price or effective date.
  - In order to refute the carrier’s payment in this medical fee dispute, the requestor alleged that a Rx30 Pharmacy System AWP pricing of 6.898 per unit for METHYLPREDNISOLONE 4 MG DOS, 21.0 count, NDC 00603459315, should be used as a basis for additional reimbursement. The requestor further alleged that “The AWP used to calculate the Bill Amount is valid for the Date of Service in question.” The requestor provided evidence to support the asserted RX30 Pharmacy System AWP price and effective date.

The Division’s AWP database shows an AWP of 1.42905, dated April 4, 2011. The formula is as follows:  
 $1.42905 \times 21 \times 1.25 + \$4.00 = \$41.51$

The total MAR for the services in dispute is \$41.51. The respondent paid a total of \$41.51; for that reason, the Division concludes that the requestor has failed to prove it is entitled to additional reimbursement.

**Conclusion**

For the reasons stated above, the division finds that the requestor has failed to support its request for additional reimbursement. As a result, the amount ordered is zero.

**ORDER**

Based upon the documentation submitted by the parties and in accordance with the provisions of Texas Labor Code §§413.031 and 413.019 (if applicable), the division has determined that the requestor is not entitled to additional reimbursement for the services involved in this dispute.

**Authorized Signature**

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Medical Fee Dispute Resolution Officer

\_\_\_\_\_  
Date

January 28, 2014

***YOUR RIGHT TO REQUEST AN APPEAL***

Either party to this medical fee dispute may appeal this decision by requesting a contested case hearing. A completed **Request for a Medical Contested Case Hearing** (form **DWC045A**) must be received by the DWC Chief Clerk of Proceedings within **twenty** days of your receipt of this decision. A request for hearing should be sent to: Chief Clerk of Proceedings, Texas Department of Insurance, Division of Workers Compensation, P.O. Box 17787, Austin, Texas, 78744. The party seeking review of the MDR decision shall deliver a copy of the request for a hearing to all other parties involved in the dispute at the same time the request is filed with the Division. **Please include a copy of the *Medical Fee Dispute Resolution Findings and Decision*** together with any other required information specified in 28 Texas Administrative Code §148.3(c), including a **certificate of service demonstrating that the request has been sent to the other party.**

**Si prefiere hablar con una persona en español acerca de ésta correspondencia, favor de llamar a 512-804-4812.**